

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELMO SHROPSHIRE, INDIVIDUALLY AND AS A MEMBER OF “ELMO & PATSY”; On Behalf Of Himself And All Others Similarly Situated,

06 Civ. 3252 (GBD) (KNF)

ECF CASE

Plaintiff,

-against-

SONY MUSIC ENTERTAINMENT, a Delaware General Partnership,

Defendant.

“THE YOUNGBLOODS” (Perry Miller p/k/a Jesse Colin Young; Lowell Levinger; Jerry Corbitt; Mina Bauer, the widow of Joe Bauer; and manager Stuart Kutchins), On Behalf Of Itself And All Others Similarly Situated,

07 Civ. 2394 (GBD) (KNF)

ECF CASE

Plaintiff,

vs.

BMG MUSIC,

Defendant.

UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

In connection with the Court’s conference set for March 9, 2012, pursuant to Rule 23 of the Federal Rules of Civil Procedure:

1. Plaintiff Elmo Shropshire in *Shropshire v. Sony Music Entertainment*, 06 Civ. 3252 (GBD) (KNF) (the “SME Action”), on behalf of himself and the Class, by and through his attorneys, Caplan & Ross, LLP, Milberg LLP, and Probstein, Weiner & Butler, and
2. Plaintiff The Youngbloods in *Youngbloods v. BMG Music*, 07 Civ. 2394 (GBD) (KNF) (the “BMG Action”), on behalf of itself and the Class, by and through its attorneys, Caplan & Ross, LLP, Law Offices of Thomas A. Cohen, and Milberg LLP

respectfully move this Court for an Order in each Action:

- (a) Preliminarily and conditionally certifying a class in each Action for the purposes of settlement;
- (b) Preliminarily approving the terms of the settlement set forth in each Action's respective Stipulation and Agreement of Settlement (collectively, the "Stipulations");
- (c) Establishing a date for a hearing to determine the fairness, reasonableness, and adequacy of the settlement set forth in each Stipulation; and
- (d) Providing for notice to Class Members of the hearing on the proposed settlement and dismissal of each Action.

The Stipulations are intended to fully and finally settle the instant class actions, subject to final Court approval. The purpose of this motion is to obtain preliminary court approval of the Stipulations and the forms of notice of the proposed settlement to be disseminated to Class Members. The terms of the settlements are set forth in full in the Stipulations, which together with each of the exhibits to which they refer, are presented contemporaneously with this motion, as is a declaration of Brian Caplan. Preliminary approval of the settlements, and the submission of the settlements to the Class Members, is warranted because in each Action the "proposed settlement is fair, reasonable, and adequate," and "the interests of the class are better served by the settlement than by further litigation." *Manual for Complex Litigation, Fourth* § 21.61 at 309 (2004).

No party opposes this motion.

Plaintiffs therefore respectfully request that the Court enter in each Action the proposed Preliminary Order for Notice and Hearing In Connection With Settlement Proceedings.

In connection with the preliminary approval of the Settlements, the Court must set a date for hearings to consider whether the Settlements should be approved as being fair, reasonable, and adequate; dates for mailing the Notice and Claim Form; and deadlines for objecting to the Settlements, opting out of the Classes, submitting a Claim Form, and filing papers in support of the Settlements and responding to any objections. In order to achieve the most effective notice, the Parties have agreed that the Notice and Claim Form should be mailed to potential Class Members with their semiannual royalty statements. For most potential Class Members, the next such statement will be mailed within the next few weeks. The parties therefore propose two alternative schedules: a preferred schedule, in the event that the Court enters the proposed Orders at or very shortly following the conference currently scheduled for March 9, 2012, and an alternative schedule in the event that the Court enters the proposed Orders after March 15, 2012, in which case the Notice and Claim Form cannot be included with the royalty statements being mailed this month:

Date the Court enters the Proposed Orders	On or before March 15, 2012	After March 15, 2012 and on or before September 12, 2012
Deadline for SME to cause the Notice and the Claim Form to be mailed to all royalty recipients (Order, ¶ 11)	On or before April 6, 2012	On or before September 30, 2012
Deadline for SME to cause the Publication Notice to appear in <i>Billboard</i> magazine (Order, ¶ 13)	On or before May 6, 2012	On or before October 30, 2012

Deadline for Class Members to Submit Claim Forms for Past and Prospective Settlement Relief (Stipulation, ¶ 11(a))	Not later than July 5, 2012 or 45 days from such Class Members' receipt of contracts from SME pursuant to a timely request for copies of such contracts as provided for in the Claim Form	Not later than December 29, 2012 or 45 days from such Class Members' receipt of contracts from SME pursuant to a timely request for copies of such contracts as provided for in the Claim Form
Deadline for requesting exclusion from the Class (Order, ¶ 17)	On or before July 5, 2012	On or before December 29, 2012
Deadline for Class Counsel to submit their papers in support of final approval of the Settlement, the proposed Plan of Allocation, and their application for attorneys' fees and expenses and a service award for Plaintiff (Order, ¶ 18)	On or before June 14, 2012	On or before December 8, 2012
Deadline for filing and serving objections to the Settlement, the proposed plan of allocation or Class Counsel's application for an award of attorneys' fees and expenses and a service award for Plaintiff (Order, ¶ 19)	On or before July 5, 2012	On or before December 29, 2012
Deadline for Class Counsel to submit their papers in response to any objections (Order, ¶ 20)	On or before September 20, 2012	On or before March 18, 2013
Settlement Hearing (Order, ¶ 5)	At the Court's convenience, on or after October 4, 2012	At the Court's convenience, on or after April 1, 2013

Plaintiffs respectfully request that the Court preliminarily approve the Settlements and enter each proposed Preliminary Order for Notice and Hearing In Connection With Settlement Proceedings with the recommended notice schedule.

Dated: New York, New York

March 7, 2012

Respectfully submitted,

/s/ Brian D. Caplan

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